

### **REMARKS**

By this response, claims 1-34 are pending as a continuing application under 37 C.F.R. §1.114 (Request for Continued Examination (RCE)). Compared to prior versions, claims 1-26 remain as originally or previously presented. Independent claims 27 and 29, and their progeny, are new. Also, claims 27 and 29 correspond roughly to claims 1 and 21 before the Applicant's Amendment, dated January 27, 2006, submitted in response to the Examiner's initial rejection of the claims by U.S. Patent Publication No. 2002/0174206 to Moyer et al. To the extent the prior art remains relevant, these remarks address the merits of the Final Office Action dated April 20, 2006 and the Advisory Action dated June 22, 2006. Namely, these remarks address the Examiner's rejection of all claims, other than 10 and 11, as anticipated under 35 U.S.C. §102(e) by Moyer. They also address the rejection of independent claims 1, 17, 18, 20 and 21 as non-enabled under 35 U.S.C. §112, first paragraph.

First, submitted herewith is an inventor affidavit under 37 C.F.R. §1.131. Generally, it provides evidence attesting to the conception and reduction to practice of the instant invention before the effective date (May 21, 2001) of the Moyer reference. Among other things, it particularly references an original disclosure of the invention and a portion of an otherwise extensive log of source code dating the introduction of the invention into software for inclusion into an eventual actual or proposed product. Collectively, the inventors swear behind Moyer and remove it as relevant prior art. For at least this reason, the anticipation rejection is submitted as infirm and, because no other art is cited, the claims are submitted as allowed.

Second, the Examiner states the specification only "remotely" mentions the negative claim limitation "regardless of whether the computing device is networked or maintains a

networked connection” and such renders various claims non-enabled. Relative to new claims 27-34, this language has been removed thereby obviating the rejection.

To the extent the language remains in claims 1-26, the Applicant submits the specification is enabled. As the law has lengthily held, a:

decision on the issue of enablement requires determination of whether a person skilled in the pertinent art, using the knowledge available to such a person and the disclosure in the patent document, *could make and use the invention without undue experimentation*. It is not fatal if some experimentation is needed, for the patent document is not intended to be a production specification. *Emphasis added, Northern Telecom, Inc. v. Datapoint Corp.*, 908 F.2d 931, 941, 15 USPQ2d 1321, 1329 (Fed. Cir. 1990).<sup>1</sup>

In the instant matter, and to the extent the Examiner himself has examined the claims with the foregoing negative limitation, it is evidence the Examiner (a skilled artisan) understands what the claim means. It is also evidence the Examiner has done so without undue experimentation, because it is assumed the Examiner has not conducted any experiments regarding the invention. Also, to the extent the specification teaches what the Examiner says it does, e.g., “aspects of the present invention can also be utilized in embodiments wherein the computing devices are not interconnected,” *Applicant’s specification, p. 4, ll. 16-20*, it is submitted that artisans of skill in the field of computers,

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<sup>1</sup> The Northern Telecom case goes on to further show that “when the challenged subject matter is a computer program that implements a claimed device or method, enablement is determined from the viewpoint of a skilled programmer using the knowledge and skill with which such a person is charge.” *Id.* They further held that “a programmer of reasonable skill could write a satisfactory program [to carry out the method steps of source data capture].” *Id.*, 15 USPQ2d at 1330. Thus, if skilled programmers are charged with such great skill in 1990, surely they can now determine what constitutes the claimed negative limitation “without” a networked connection and do so without undue experimentation.

computer software and information technology (IT), know exactly what this means without undue experimentation. Namely, computer technicians, software authors, IT professionals, etc., understand that when language states that invention can be used at a time when “the computing devices are not interconnected,” readily know that the computers need not be connected. No connections also translates to no networks, for example. Figure 1 also shows a representative client and server. The specification teaches operating systems and sample source code throughout and, at *page 5, second full paragraph of the Applicant’s specification*, topology, protocols, a LAN, a “collection of LANs cooperating to form a larger network, such as the Internet” and a transmission medium 26 related to same are disclosed. It is disingenuous, at best, to now claim that skilled artisans dealing with claims as complex as installation and removal of peripheral devices on computing systems are somehow hard pressed to understand what it means to do so without basic or rudimentary regard to a network connection, without undue experimentation. Please also see the attached affidavit for extrinsic evidence of the level of skill in the art at the time of filing, especially before the time of filing because the affidavit attests to a time before May 21, 2001.

Moreover, the specification broadly states the “undesirable” problem of “continually maintaining such support information [of a peripheral device] on a computing device” when the relationship between the computing device and the peripheral is “transient in nature.” *Applicant’s specification, p. 1, final paragraph*. At *Applicant’s specification, p. 20, final paragraph*, it is touted that “mobile” persons are now able to perform the invention “without having to involve an administrator, for example, on configuration issues.” Expressly, this relates to the configuration of computing devices. Intuitively, this means that computing devices need not be networked or have other configuration issues. It is respectfully submitted that skilled artisans understand the negative limitation under consideration, without

any undue experimentation, and the claims are fully enabled. Reconsideration is respectfully requested.

Third, the undersigned and the Examiner talked with one another on June 29, 2006. In substance, the discussion primarily centered on the Examiner's refusal to enter the affidavit into the record (as indicated by the Advisory Action). Among other things, it was discussed that the reason why the affidavit was not earlier submitted, before the final rejection of the claims, related to the fact that the Applicant believed the then presented claim amendments sufficiently defined the invention over Moyer and that a Notice of Allowance was imminently due. Because the affidavit was refused entry, however, the Applicant is again re-presenting it with the filing of this RCE and no obstacles should remain as to its entry. Because the evidence effectively also removes Moyer as a reference, various claims, e.g., 27 and 29, are presented that roughly re-present earlier claims 1 and 21 from a time from before the initial citing of Moyer. There is no reason why certain of the claims should be narrowed to avoid Moyer when Moyer is not prior art.

It was further discussed that the Examiner found the Affidavit sufficiently detailed and, indeed, pointed out where in each exhibit the information corresponds to the claims. The Examiner's cite to MPEP §2138.06, in regard to "diligence," was obviated since it clearly only relates to interferences and 35 U.S.C. §102(g) art. It is irrelevant herein.

Finally, the Applicant submits all claims are in a condition for allowance and requests a timely Notice of Allowance to be issued for same. ***To the extent any fees are due beyond those expressly authorized in the accompanying transmittal forms for the Request for Continued Examination, the undersigned authorizes their deduction from Deposit Account No. 11-0978.*** None are believed due, however, because the Applicant has paid the RCE filing fee under 37 C.F.R. §1.17(e). The Applicant also requests a change in the attorney

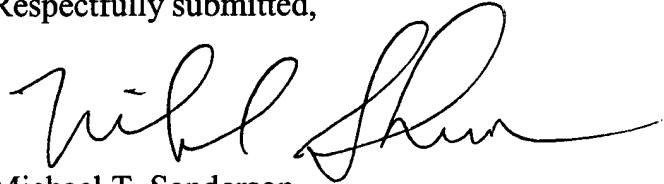
Application Serial No. 10/073,571

Preliminary Remarks and Request for Continued Examination dated July 18, 2006

Reply to Final Rejection of April 20, 2006 and Advisory Action dated June 22, 2006

document number of record. Namely, please replace 971-150 with 1363-010. The docket number changed when the most recent Power of Attorney went into effect.

Respectfully submitted,



Michael T. Sanderson

Registration No. 43,082

247 North Broadway  
Lexington, Kentucky 40507  
(859) 252-0889

CERTIFICATE OF MAILING

I hereby certify that this correspondence  
is being deposited with the United States Postal  
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VA 22313-1450 on July 18, 2006 by [Signature]